

ORDINANCE NO. _____

1 AN ORDINANCE amending Chapter 1.28 of the Lincoln Municipal Code relating to
2 reasonable accommodation by amending Section 1.28.020 to more accurately state the requirements of
3 the Acts regarding reasonable accommodation; amending Section 1.28.030 to provide additional
4 application requirements; amending Section 1.28.040 to modify the reference to Section 1.28.050;
5 amending Section 1.28.050 to revise and supplement the factors to be considered in making a
6 determination regarding the request for reasonable accommodation; and repealing Sections 1.28.020,
7 1.28.030, 1.28.040, and 1.28.050 of the Lincoln Municipal Code as hitherto existing.

8 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

9 Section 1. That Section 1.28.020 of the Lincoln Municipal Code be amended to read as
10 follows:

11 **1.28.020 Applicability.**

12 A request for reasonable accommodation may be made by any person with a disability or handicap,
13 as defined in the Acts, or by an entity acting on behalf of a person or persons with disabilities or handicaps
14 to provide or secure equal ~~access to housing~~ opportunity to use and enjoy a dwelling and/or otherwise
15 receive services or participate in programs or activities provided by the City when the application of a City
16 of Lincoln building code, fire or safety code, zoning law or other land use regulation, policy or practice acts
17 as a barrier to ~~fair housing~~ such equal opportunities. The provisions of this chapter do not apply to the
18 City's Bureau of Fire Prevention's application of any code or regulation adopted by the State Fire Marshal
19 pursuant to its delegated authority from the State Fire Marshal. As defined in the Acts, a person with a

1 disability or handicap is a person who has a physical or mental impairment that limits or substantially limits
2 one or more major life activities; anyone who is regarded as having such impairment; or anyone who has
3 a record of such impairment.

4 A request for reasonable accommodation may include a modification or exception to ~~the~~ rules,
5 standards and practices ~~for the construction, siting, development and use of housing or housing-related~~
6 ~~facilities that would~~ when such modification or exception is necessary to eliminate regulatory barriers and
7 provide a person with a disability or handicap with equal opportunity to ~~housing of their choice~~ use and
8 enjoy a dwelling and/or to otherwise receive services or participate in programs or activities provided by
9 the City. Requests for reasonable accommodation shall be made in the manner prescribed by Section
10 1.28.030 (~~Application Requirements~~).

11 Section 2. That Section 1.28.030 of the Lincoln Municipal Code be amended to read as
12 follows:

13 **1.28.030 Application Requirements.**

14 (a) Application. Requests for reasonable accommodation shall be submitted on an application
15 form provided by the City Clerk, or in the form of a letter to the City Clerk, and shall contain the following
16 information:

17 (a1) The applicant's name, address and telephone number.

18 (b2) The street address and legal description or Assessor's Parcel Number of the
19 property for which the request is being made.

20 (c3) The current actual use of the property.

1 ~~(d) — The basis for the claim that the individual (or group of individuals, if application is made by~~
2 ~~an entity acting on behalf of a person or persons with disabilities or handicaps) is considered disabled or~~
3 ~~handicapped under the Acts.~~

4 ~~(e)~~4 The law, provision, regulation or policy from which reasonable accommodation is
5 being requested.

6 ~~(f) — Why the requested accommodation is necessary to make the specific property accessible~~
7 ~~to the individual or group of individuals.~~

8 (b) Additional Information. The following information shall be submitted with the application:

9 (1) A statement from the applicant describing the basis for the claim that the individual
10 (or group of individuals, if application is made by an entity acting on behalf of a person or persons with
11 disabilities or handicaps) is considered disabled or handicapped under the Acts.

12 (2) A statement as to why the requested accommodation is financially, therapeutically,
13 or otherwise necessary to afford a handicapped or disabled person equal opportunity to use and enjoy a
14 dwelling and/or to otherwise receive services or participate in programs provided by the City.

15 (3) Documentation supporting the financial, therapeutic, or other necessity for the
16 accommodation.

17 Upon the filing of the application ~~for request for reasonable accommodation, together with all~~
18 information required above, the City Council shall refer a request for reasonable accommodation from a
19 zoning law or other land use regulation policy or practice to the Planning Commission. If the request is for
20 reasonable accommodation from a building code, fire code, or safety code, the City Council shall refer the
21 request to the Board of Appeals established under said code to hear appeals of orders, decisions,

determinations, made by the code official relative to the application or interpretation of such code. The Planning Commission or such Board of Appeals are hereinafter referred to in this chapter as the Reviewing Authority.

Section 3. That Section 1.28.040 of the Lincoln Municipal Code be amended to read as follows:

1.28.040 Reviewing Authority and Procedure.

The Reviewing Authority shall hold a public hearing on the request and make a recommendation and report to the City Council within 45 days from the date of referral regarding granting, granting with modifications, or denying the request for reasonable accommodation in accordance with Section 1.28.050 (~~Findings and Decision~~). Failure of the Reviewing Authority to submit its report and recommendation to the City Council within said 45 days shall be deemed to be a recommendation of approval, unless the delay is at the request of or due to the default of the applicant.

Section 4. That Section 1.28.050 of the Lincoln Municipal Code be amended to read as follows:

1.28.050 ~~Findings and Decision.~~

Upon receiving the report from the Reviewing Authority or upon failure of the Reviewing Authority to timely submit its report, the City Council after public hearing shall take final action upon the application and may grant, grant with modifications, or deny the request for reasonable accommodation consistent with the Acts and based upon ~~consideration of~~ the following findings:

(1) Whether the housing which is the subject of the request will be used by an individual or a group of individuals considered disabled or handicapped under the Acts, ~~and that~~

1 (2) Whether the accommodation requested is financially, therapeutically, or otherwise
2 necessary to ~~make specific housing available to the individual or group of individuals with a disability or~~
3 ~~handicap under the Acts~~ afford such person equal opportunity to use and enjoy a dwelling and/or to
4 otherwise receive services or participate in programs provided by the City.

5 (23) Whether there are alternative reasonable accommodations available that would
6 provide an equivalent level of benefit, ~~or if~~

7 (4) Whether alternative accommodations would be suitable based on the circumstances
8 of this particular case.

9 (3) ~~Whether the requested reasonable accommodation would impose an undue~~
10 ~~financial or administrative burden on the City.~~

11 (45) If applicable, whether the requested reasonable accommodation would be
12 consistent with the Comprehensive Plan land use designation of the property which is the subject of the
13 reasonable accommodation request, and with the general purpose and intent of the zoning district in which
14 the use is located.

15 (56) Whether the requested reasonable accommodation substantially affects the physical
16 attributes of the property.

17 (7) Whether the requested reasonable accommodation would impose an undue
18 financial or administrative burden on the City.

19 (8) Whether the requested reasonable accommodation would require a fundamental
20 alteration to the zoning, building, fire, or safety codes of the City.

1 In granting a request for reasonable accommodation, the City may impose any conditions of
2 approval deemed reasonable and necessary to ensure that the reasonable accommodation would ~~comply~~
3 be consistent with the Acts and the findings required above.

4 Section 5. That Sections 1.28.020, 1.28.030, 1.28.040, and 1.28.050 of the Lincoln
5 Municipal Code as hitherto existing be and the same are hereby repealed.

6 Section 6. That this ordinance shall take effect and be in force from and after its passage
7 and publication according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

